

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. DOGGETT) and to include extraneous matter:

Mr. VISCLOSKY.
Mr. DELLUMS.
Mr. HASTINGS.
Mr. POSHARD.
Ms. ROYBAL-ALLARD.
Mr. DAVIS of Illinois.
Mr. ANDREWS.
Mr. DAVIS of Florida.
Mr. DIXON.

The following Members (at the request of Mr. WOLF) and to include extraneous matter:

Mr. DIAZ-BALART.
Mr. RADANOVICH.
Mr. MCINTOSH.
Mr. ARCHER.
Mr. BURTON of Indiana.
Mr. SALMON.

The following Members (at the request of Mrs. CLAYTON) and to include extraneous matter:

Mr. COBLE, in two instances.
Mr. FORBES.
Mr. KIND.
Mr. ANDREWS.
Mr. HINCHEY.
Mr. ROMERO-BARCELO.
Mr. MCKEON.
Mr. BURTON of Indiana.
Mr. DIXON.
Mr. VISCLOSKY.
Mr. DELLUMS.
Ms. ROYBAL-ALLARD.
Mr. HAMILTON.
Mr. HASTINGS of Florida.
Mr. POSHARD.
Mr. SALMON.
Mr. WELDON of Florida.
Mrs. MORELLA.
Mr. GOODLING.
Mr. CALLAHAN.
Mr. HYDE.
Mr. BISHOP.
Mr. BAKER.
Mr. SOUDER.
Mr. LUCAS of Oklahoma.
Mr. PICKERING.
Ms. JOHNSON of Texas.
Mr. PICKETT.
Mr. HUTCHINSON.
Ms. KILPATRICK.
Mr. WELLER.
Mr. SOLOMON.
Mrs. FOWLER.

The following Members (at the request of Mr. STEARNS) and to include extraneous matter:

Mr. PITTS.
Mr. PAYNE.
Ms. STABENOW.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1349. An act to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Prince Nova*, and for other purposes.

S. 1575. An act to rename the Washington National Airport located in the District of Columbia and Virginia as the "Ronald Reagan Washington National Airport".

ADJOURNMENT

Mr. STEARNS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. GIBBONS). Pursuant to the provisions of House Concurrent Resolution 201, 105th Congress, the House stands adjourned until 3 p.m. on Wednesday, February 11, 1998.

Thereupon (at 5 o'clock and 5 minutes p.m.), pursuant to House Concurrent Resolution 201, the House adjourned until Wednesday, February 11, 1998, at 3 p.m.

OATH OF OFFICE—MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Member, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

"I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 105th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable GREGORY W. MEEKS, Sixth District of New York.

SUPPLEMENTARY NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,

OFFICE OF COMPLIANCE,

Washington, DC, January 26, 1998.

The Hon. NEWT GINGRICH,
Speaker of the House, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303 of the Congressional Accountability Act of 1995, 2 U.S.C. §1383, I am transmitting the enclosed Supplementary Notice of Proposed Rulemaking (requesting further comment on proposed amendments to procedural rules previously adopted) for publication in the Congressional Record.

The Congressional Accountability Act specifies that the enclosed notices be published on the first day on which both Houses are in session following this transmittal.

Sincerely yours,

RICKY SILBERMAN,
Executive Director.

Enclosure.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Amendments to Procedural Rules.

SUPPLEMENTARY NOTICE OF PROPOSED RULEMAKING

Summary: On October 1, 1997, the Executive Director of the Office of Compliance ("Office") published a Notice of Proposed Rulemaking ("NPRM") to amend the Procedural Rules of the Office of Compliance to cover the General Accounting Office ("GAO") and the Library of Congress ("Library") and their employees. 143 Cong. Rec. S10291 (daily ed. Oct. 1, 1997). The Congressional Accountability Act of 1995 ("CAA") applies rights and protections of eleven labor, employment, and public access laws to the Legislative Branch. Sections 204-206 and 215 of the CAA, which apply rights and protections of the Employee Polygraph Protection Act of 1988 ("EPPA"), the Worker Adjustment and Retraining Notification Act ("WARN Act"), the Uniformed Services Employment and Reemployment Act of 1994 ("USERRA"), and the Occupational Safety and Health Act of 1970 ("OSHAct"), became effective with respect to GAO and the Library on December 30, 1997. The NPRM proposed to extend the Procedural Rules to cover GAO and the Library and their employees for purposes of: (1) proceedings relating to these sections 204-206 and 215, (2) proceedings relating to section 207 of the CAA, which prohibits intimidation and reprisal for the exercise of rights under the CAA, and (3) regulating *ex parte* communications.

In the only comments received in response to the NPRM, the Library questioned whether the CAA authorizes employees of the Library to initiate proceedings under the administrative and judicial procedures of the CAA alleging violations of sections 304-207 of the Act. The Office is publishing this Supplementary Notice of Proposed Rulemaking (this "Notice") to give the regulated community an opportunity to provide further comment on the questions raised by the Library's submission.

With respect to proceedings relating to section 215 of the CAA (OSHAct) and with respect to *ex parte* communications, a separate Notice of Adoption of Amendments is being prepared to extend the Procedural Rules to cover GAO and the Library and their employees and to respond to relevant portions of the Library's comments, and will be published shortly.

Dates: Comments are due within 30 days after the date of publication of this Notice.

Addresses: Submit comments in writing (an original and 10 copies) to the Executive Director, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540-1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 426-1913. This is not a toll-free call.

Availability of comments for public review: Copies of comments received by the Office will be available for public review at the Law Library Reading Room, Room LM-201, Law Library of Congress, James Madison Memorial Building, Washington, DC, Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724-9250 (voice), (202) 426-1912 (TTY). This Notice will also be made available in large print or braille or on computer disk upon request to the Office of Compliance.

SUPPLEMENTARY INFORMATION

The Congressional Accountability Act of 1995 ("CAA" or the "Act"), Pub. L. 104-1, 2

U.S.C. §§ 1301-1438, applies the rights and protections of eleven labor, employment, and public access laws to certain defined "covered employees" and "employing offices" in the Legislative Branch. The CAA expressly provides that GAO and the Library and their employees are included within the definitions of "covered employees" and "employing offices" for purposes of four sections of the Act:

(a) *EPPA*. Section 204, making applicable the rights and protections of the Employee Polygraph Protection Act of 1988 ("EPPA")—in which subsection (a) generally prohibits an employing office from requiring a covered employee to take a lie detector test, regardless of whether the covered employee works in that employing office; and subsection (b) provides that the remedy for a violation shall be such legal and equitable relief as may be appropriate, including employment, reinstatement, promotion, and payment of lost wages and benefits.

(b) *WARN Act*. Section 205, making applicable the rights and protections of the Worker Adjustment and Retraining Notification Act ("WARN Act")—in which subsection (a) prohibits the closure of an employing office or a mass layoff until 60 days after the employing office has served written notice on the covered employees or their representatives; and subsection (b) provides that the remedy for a violation shall generally be back pay and benefits for up to 60 days of violation.

(c) *USERRA*. Section 206, making applicable the rights and protections of section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA")—in which subsection (a) protects covered employees who serve in the military and other uniformed services against discrimination, denial of reemployment rights, and denial of benefits by employing offices; and subsection (b) provides that the remedy for a violation shall include requiring compliance, requiring compensation for lost wages or benefits and, in case of a willful violation, an equal amount as liquidated damages, and the use of the "full equity powers" of "[t]he court" to fully vindicate rights and benefits.

(d) *OSHA Act*. Section 215, making applicable the rights and protections of the Occupational Safety and Health Act of 1970 ("OSHA Act")—in which subsection (a) protects the safety and health of covered employees from hazards in their places of employment; subsection (b) provides that the remedy for a violation shall be an order to correct the violation; and subsection (c) specifies procedures by which the Office of Compliance conducts inspections, issues and enforces citations, and grants variances.

Sections 204-206 and 215 go into effect by their own terms with respect to GAO and the Library one year after transmission to Congress of the study under section 230 of the CAA. The Board of Directors of the Office ("Board") transmitted its study (the "*Section 230 Study*") to Congress on December 30, 1996, and sections 204-206 and 215 therefore went into effect at GAO and the Library on December 30, 1997.

The NPRM proposed to extend the Procedural Rules of the Office, which govern the consideration and resolution of alleged violations of the CAA, to cover GAO and the Library and their employees in four respects:

(1) Sections 401-408 of the CAA establish administrative and judicial procedures for considering alleged violations of part A of Title II of the CAA, which includes sections 204-206, and the Procedural Rules detail the procedures administered by the Office under sections 401-406. On the premise that GAO and the Library and their employees are covered by the statutory procedures of sections 401-408 when there is an allegation that sec-

tions 204-206 have been violated, the NPRM proposed to extend the Procedural Rules to include GAO and the Library and their employees for the purpose of resolving any allegation of a violation of these sections.

(2) Section 207 prohibits employing offices from intimidating or taking reprisal against any covered employee for exercising rights under the CAA. On the premise that GAO and the Library and their employees are covered under section 207, as well as under the statutory procedures of sections 401-408 when there is an allegation that section 207 has been violated, the NPRM proposed to extend the Procedural Rules to include GAO and the Library and their employees for the purpose of resolving any allegation of intimidation or reprisal prohibited under section 207.

(3) Section 215 specifies the procedures by which the Office conducts inspections, issues citations, grants variances, and otherwise enforces section 215, and the Procedural Rules detail the procedures administered by the Office under that section. As these statutory procedures are part of section 215, which expressly covers GAO and the Library and their employees, the NPRM proposed to extend the Procedural Rules to cover these instrumentalities and employees for purposes of proceedings under section 215.

(4) Section 9.04 of the Procedural Rules, which regulates *ex parte* communications, includes within its coverage any covered employee and employing office "who is or may reasonably be expected to be involved in a proceeding or rulemaking." As GAO and the Library and their employees may reasonably be expected to be involved in proceedings and rulemakings, the NPRM proposed to extend the Procedural Rules to cover these instrumentalities and employees for purposes of section 9.04.

As to proceedings under section 215 of the CAA (OSHA Act) and *ex parte* communications, the Library's comments argue that the Library should not now come under the Office's Procedural Rules generally or under the Rules relating to section 215 proceedings specifically. After considering those arguments, the Executive Director, with the approval of the Board, has decided to amend the Procedural Rules to cover GAO and the Library and their employees with respect to proceedings under section 215 and *ex parte* communications, and a Notice of Adoption of Amendments to accomplish this and to respond to relevant portions of the Library's comments is being prepared and will be published shortly.

However, as to whether CAA procedures cover GAO and the Library and their employees for purposes of resolving disputes under section 205-207, the Library's comments raises issues of statutory interpretation upon which the Office seeks comments. The Library argues that Congress "expressly excluded" the Library and other instrumentalities from the application of all procedural and other provisions of the CAA other than the substantive provisions in Title II. The Library states: "A fair reading of the CAA is that Congress intended to ensure that the Library's employees were covered by the substantive protections of the law, but that no procedural regulations should affect the Library's employees until the Office of Compliance completed its study [under section 230], made its legislative recommendations, and Congress acted on those recommendations." (The Office of Compliance has made the Library's entire submission available for public review in the Law Library Reading Room of the Law Library of Congress, at the address and times stated at the beginning of this Notice.) The Office hereby invites the views of the entire regulated community on the issues raised by the Library, including the following specific questions:

SUPPLEMENTAL REQUEST FOR COMMENT

1. Can GAO and Library employees use the administrative and judicial procedures of sections 401-408 of the CAA when a violation of sections 204-206 (EPPA, WARN Act, USERRA) is alleged?

As noted above, the NPRM was premised on the view that the administrative and judicial procedures of section 401-408 cover GAO and the Library and their employees with respect to proceedings where violations of sections 204-206 are alleged. Because the procedures in section 401-408 can only be invoked upon an allegation that substantive rights granted in Title II have been violated, the procedures arguably derive their scope from the substantive provision involved in a particular proceeding. Sections 204-206 expressly cover GAO and the Library and their employees, and, if the premise of the NPRM is correct, proceedings under sections 401-408 that involve alleged violations of sections 204-206 may likewise cover those instrumentalities and employees. However, the Library's comment challenged this premise, arguing that Congress "expressly excluded" the Library and other instrumentalities from the application of all portions of the CAA except the substantive provisions of Title II.

Commenters are asked to provide their views as to whether the statutory procedures under sections 401-408 should be construed as covering GAO and the Library and their employees where violations of sections 204-206 are alleged, and are requested to present the legal rationales that may bear on this inquiry. Commenters should address:

The relationship, if any, between the substantive requirements and remedies granted in part A of Title II and the procedures established in Title IV of the CAA.

The definitions and usage of the defined terms "covered employee" and "employing office" in various portions of the Act.

Whether the statute can be read to provide substantive rights and remedies but not procedures.

The provision in section 415 of the CAA prohibiting the use of the Office's awards-and-settlements account for awards and settlements involving GAO and the Library.

The effect that section 225(d) of the CAA should have in determining this issue.

The canons of construction requiring that statutes in derogation of sovereign immunity must be construed strictly in favor of the sovereign and that a statutory construction which raises constitutional questions such as separation-of-powers may be adopted only if clearly required by the statutory text.

2. Notwithstanding whether the procedures established under the CAA apply, are other procedures, whether internal or external to GAO and the Library, available for considering alleged violations of sections 204-206 and for imposing the remedies available under those sections?

In conducting the *Section 230 Study*, the Board received information from GAO and the Library and their employees indicating that a variety of internal and external venues are available for consideration of employee allegations of violations of workplace rights and protections. Commenters are invited to provide their views on the extent to which procedures other than those established by the CAA are available to GAO and the Library and their employees where a violation of sections 204-206 is alleged and the monetary and equitable remedies specified in those sections are sought. Furthermore, insofar as existing procedures may not comprehensively cover any dispute or provide any remedy afforded under the CAA, do GAO, the Library, and other employing offices

have the authority to craft new procedures and, through such procedures, to grant whatever monetary and non-monetary remedies the CAA provides?

In responding to this inquiry, commenters are also asked to consider the implications of several provisions in the CAA. Do the following provisions limit the availability to GAO and the Library and their employees of the administrative, judicial, and negotiated procedures that might otherwise be available to them where violations of sections 204-206 are alleged and remedies granted under those sections are sought.

Section 225(d) and (e) and 401 contain provisions specifying, in general terms, what procedures must be used to consider a CAA violation and to seek a CAA remedy.

Section 409 and 410 allow judicial review of CAA regulations and of CAA compliance only pursuant to the procedures of section 407, which provides for judicial review of Board decisions, and section 408, which provides a private right of action.

Commenters are also requested to be clear as to whether procedures available outside of the CAA cover claims by applicants for employment, former employees, and temporary and intermittent employees, and whether these procedures cover allegations by GAO or Library employees that their rights granted under the CAA were violated by other employing offices and allegations by employees of other employing offices that their CAA rights were violated by GAO or the Library.

3. Does section 207 of the CAA cover GAO and the Library and their employees with respect to sections 204-206 and 215? If not, do other laws, regulations, and procedures covering GAO and the Library and their employees afford similar protection against intimidation and reprisal for exercising CAA rights?

The RPRM proposed to amend the Procedural Rules to cover GAO and the Library and their employees with respect to "any allegation of intimidation or reprisal prohibited under section 207 of the Act." While the Library did not object to this proposal, section 207 does not expressly cover GAO and the Library and their employees. Comment is therefore invited on whether the prohibition against intimidation and reprisal established by section 207 should be construed as covering GAO and the Library and their employees.

If section 207 is construed not to apply, would other laws and regulations covering GAO and the Library and their employees afford protection against intimidation and reprisal for exercising rights under the CAA? Would these laws and regulations afford the same substantive rights and remedies as section 207? What procedures would be available to consider violations and to impose such remedies? Commenters are requested to be clear as to whether such laws, regulations, and procedures outside of the CAA cover applicants for employment, former employees, and temporary and intermittent employees, and whether these laws, regulations, and procedures cover allegations that GAO or the Library intimidated or took reprisal against employees of other employing offices and allegations that other employing offices intimidated or took reprisal against GAO or Library employees for exercising rights granted under the CAA.

* * * * *

No decision will be made as to whether the Procedural Rules will be amended to cover GAO and the Library and their employees for purposes of alleged violations of sections 204-207 until after the comments requested in this Notice have been received and considered. During this interim period, the Office

will accept requests for counseling under section 402, requests for mediation under section 403, and complaints under section 405 filed by GAO or Library employees and/or alleging violations by GAO or the Library where violations of sections 204-207 of the CAA are alleged. Any objections to jurisdiction may be made to the hearing officer or the Board under sections 405-406 or to the court during proceedings under sections 407-408. The Office will counsel any employees who initiate such proceedings that a question has been raised as to the Office's jurisdiction and that the employees may wish to preserve their rights under any other available procedural avenues.

Signed at Washington, D.C., on this 26th day of January, 1998.

RICKY SILBERMAN,
Executive Director,
Office of Compliance.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

7006. A letter from the Secretary of Defense, transmitting the Department's Annual Report to the President and the Congress 1998, pursuant to 10 U.S.C. 113; to the Committee on National Security.

7007. A communication from the President of the United States, transmitting a copy of Presidential Determination No. 98-7: Emigration Policies of Albania, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, pursuant to 19 U.S.C. 2432(a) and 2439(a); (H. Doc. No. 105-209); to the Committee on International Relations and ordered to be printed.

7008. A communication from the President of the United States, transmitting a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council, pursuant to Public Law 102-1, section 3 (105 Stat. 4); (H. Doc. No. 105-212); to the Committee on International Relations and ordered to be printed.

7009. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Department's report entitled "Country Reports on Human Rights Practices for 1997," pursuant to 22 U.S.C. 2151n(d); to the Committee on International Relations.

7010. A communication from the President of the United States, transmitting the President's report entitled "Destruction of Equipment East of the Urals"; to the Committee on International Relations.

7011. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-226, "James M. McGee, Jr., Street, S.E. Designation Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7012. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-227, "Ronald H. Brown Building Designation Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7013. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-228, "Brian T. A. Gibson Memorial Building Designation Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7014. A letter from the Chairman, Council of the District of Columbia, transmitting a

copy of D.C. Act 12-229, "Closing of a Public Alley in Square 5157, S.O. 95-107, Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7015. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-230, "Taxicab Commission Hearing Examiner Amendment Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7016. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-231, "Fleet Traffic Adjudication Amendment Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7017. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-232, "Closing of a Public Alley in Square 5405, S.O. 96-135, Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7018. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-233, "Criminal Code Technical Amendments Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7019. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-234, "Establishment of Council Contract Review Criteria Temporary Amendment Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7020. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-235, "Tax Revision Commission Establishment Temporary Amendment Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7021. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-236, "Reorganization Plan No. 5 for the Department of Human Services and Department of Corrections Temporary Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7022. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-246, "Technical Amendments Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7023. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 12-249, "Chief Procurement Officer Qualification Amendment Act of 1997" received January 29, 1998, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform and Oversight.

7024. A letter from the Interim District of Columbia Auditor, District of Columbia, transmitting a copy of a report entitled "Review of the Department of Employment Services' Surplus Tax Surcharge Funds," pursuant to D.C. Code section 47-117(d); to the Committee on Government Reform and Oversight.

7025. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting a report of activities under the Freedom of Information Act for 1997, pursuant to 5 U.S.C. 552; to the Committee on Government Reform and Oversight.

7026. A letter from the Acting Director, Office of Personnel Management, transmitting